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ULSTER COUNTY

AGRICULTURAL AND FARMLAND PROTECTION BOARD

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Robert Magnanini, Chair

February 28, 2025

Report to the Ulster County Legislature: AFPB Recommendation for Agricultural District #3

The Ulster County Agricultural and Farmland Protection Board (AFPB) has conducted a review of issues related to the continuation of Agricultural District #3. The AFPB by a motion of the majority of the Board at its meeting held on February 20, 2025 hereby finds that the majority of the land within the District continues to be viable agricultural land and recommends the recertification of Agricultural District #3 with the modification to remove one parcel as a result of land use changes as provided for in this Report.

Section 303-a(2c), Article 25AA of Agriculture and Markets Law requires the AFPB to consider the following factors in making its recommendation to recertify the District:

- 1. The nature and status of farming and farm resources within the district, including the total number of acres of land and the total number of acres of land in farm operations in the district**

Agricultural District #3 is **16,911.16 acres**, comprising **600 parcels**. The acreage of land in farm operations is **7,382.06 acres**, which comprises tax parcels classified as agriculture by local tax assessors using New York State's property class codes. The area containing Agricultural District #3 covers the western part of Ulster County, and the central portion around the Rondout Creek (see Appendices 1 and 2).

Agricultural District #3 is centered in the Rondout Valley. Much of the District's farming occurs in the lowlands around Rondout Creek. This core area stretches from the southern half of Marbletown through Rochester and into Wawarsing, ending just before Ellenville (see Appendix 3).

Soils designated as "Prime Farmland" cover much of the Rondout Valley, including those of "Statewide Importance". This District has lands that were some of the first to enter the New York State Certified Agricultural District Program in Ulster County in the early 1970s. The viability for farming in much of this area remains strong. An active membership in the Rondout Valley Growers Association attests to this.

The Town of Hardenburgh, northwest of the Rondout Valley, has tax parcels in Agricultural District #3 and farms outside the District. The number of tax parcels classified by the assessor as agriculture increased from 15 farms in 2017 to 17 farms by 2024 (see Appendix 4).

2. The extent to which the district has achieved its original objectives

Comparing Agricultural District #3 in 2017 and 2024, the land area increased for tax parcels classified as agriculture by tax assessors. The number of tax parcels with agricultural property class codes increased by 18 from 184 in 2017 to 202 in 2024 (see Figure 1)¹. The Rondout Valley had 16 of these parcels, encompassing 1,170.07 acres. Around this period, roughly 448 acres went from being assessed as agricultural to another land use, particularly residential. In Hardenburgh, the two tax parcels that received agricultural property class codes by 2024 encompassed 167.79 acres.

Figure 1: Number of Tax Parcels with Agricultural Real Property Class Codes in the Rondout Valley and Haerdenburgh, 2017 and 2024

	2017		2024	
	Tax Parcels with Agricultural Property Class Code	Parcel Acreage	Tax Parcels with Agricultural Property Class Code	Parcel Acreage
Rondout Valley and Hardenburgh	184	9,573.11	202	10,910.67
Rondout Valley	169	7,349.86	185	8,519.93
Rondout Valley and in District #3	149	6,800.63	162	7,858.10
Rondout Valley not in District	20	549.24	23	661.83
Hardenburgh	15	2,223.25	17	2,390.74
Hardenburgh and in District #3	2	581.43	2	581.43
Hardenburgh not in District	13	1,641.92	15	1,809.31

¹ Appendices 5 and 6 are maps of district tax parcels by real property class code for 2017 and 2024.

The land area used for crops also increased. Comparing USDA CropScape data from 2017 and 2023 (the most recently available) in the Rondout Valley, cropland and other land suitable for farming² increased from 10,265.71 acres to 12,391.79.³

In the Rondout Valley, a lot of farming takes place on properties categorized as something other than agricultural by tax assessors:

- Residential vacant land over 10 acres, when it's not forested, is commonly farmed, often haying. Some properties classified as residential with occupants also have agriculture.
- New farms that have yet to qualify for an agricultural assessment. Cut-flower operations developed in the Rondout Valley over the last 5 to 10 years. They are one example of new farms in the area.
- Farms that share another commercial enterprise on a property. The property class code reflects this business, which for example, can be a retail establishment as opposed to a farm.

Nevertheless, Agricultural District #3 covers most of the farms in the Rondout Valley, virtually all of the very fertile farmland along the Rondout Creek, and parcels away from the Rondout Creek, which are an important part of the agricultural economy in Ulster County.

Agricultural District #3 continues to achieve its original objectives. It continues to cover an area with sustained agricultural activity as evidenced by its land use.

3. The extent to which county and local comprehensive plans, policies, and objectives are consistent with and support the district

The Ulster County Legislature adopted *the Ulster County Agricultural and Farmland Protection Plan* in 1997. The Plan identifies state certified agricultural districts as a key tool for preserving farmland. The Plan encourages farm participation in the New York State Agricultural District Program, promotes land use compatibility, and recommends strategies and practices that increase agricultural viability. An update to the 1997 plan is underway with a draft publicly available in October 2024.

² The CropScape category called Grassland/Pasture composed 9,433.06 of the 12,391.79 acres of farmed or farmable land. Grassland/Pature includes the land use categories of Pasture, Hay Fields, and Rangeland. Grassland/Pasture also includes a catch-all category call Grassland Herbaceous, which includes pasture, hay fields, rangeland, some lawns, and other similar open spaces. It's grouping together hard to distinguish open spaces outside of developed or urbanized areas. It's a category that includes actively farmed land and land viable for farming but not farmed.

Neither Hardenburgh nor Olive has a comprehensive plan, but Olive is in the process of updating its comprehensive plan. The lack of comprehensive planning has not discouraged agriculture, as the zoning statutes recognize and support agricultural uses. New parcels entered Agricultural District #3 in Olive since its last review.

Rosendale and Wawarsing address agriculture in their comprehensive plans. Rosendale encourages agriculture and specifically cites it as important to the local economy. Wawarsing's comprehensive plan treats agriculture as both an economic and a natural resource. Its plan calls for purchase of development rights (PDRs) and conservation development techniques to protect farmland.

Rochester's comprehensive plan, as with Rosendale's and Wawarsing's, also expresses agriculture's importance to local economic development and explains the need for the conservation of farmland through PDRs and other measures. Rochester's discussion of agriculture and economic development goes further, though. It discusses the importance of providing opportunities for farmers to earn supplemental income as a means of remaining in farming, and offers the following policies:

- Encourage direct marketing of agricultural products through farm stands and similar activities.
- Provide opportunities for farmers to earn non-farm income on their properties, such as allowing farm buildings to be re-adapted to other, similar uses (e.g. small engine repair) and finding ways to allow farm-related mining below the DEC threshold of 1,000 tons per year to occur with the minimum amount of impact on residential areas.
- Encourage or support agri-tourism activities by farms in the town.
- Promote and develop agriculture in the Town through a coordinated plan of activities.

Rochester's comprehensive plan also calls for exploring the enactment of a right-to-farm law.

In 2022, the Town of Rochester updated its comprehensive plan by incorporating two planning studies completed years prior. In the *Town of Rochester, NY Open Space Inventory* from 2015, the town identifies priority agricultural lands and discusses farming's importance to the community. The *Town of Rochester Natural Heritage Plan* from 2018 lists one of its goals as Agriculture and Heritage Farm Protection, which focuses on ensuring long-term viability for farming. In support of this goal, it calls for protecting at least 50% of the prime and important soils in town. It also calls for an agricultural and farmland protection plan similar to Marbletown's.

Marbletown has done the most long-term planning for agriculture. Marbletown's comprehensive plan has a section called Agricultural Lands, Forest Lands, and Other Open

Space. The town recognizes the viability of farming depends on “maintaining a critical mass of productive lands and creating opportunities for a new generation of farmers.” The town updated its comprehensive plan in 2024, adding several paragraphs throughout the document. This introduces the policy of promoting more mixed-use development in certain areas to increase the housing stock to accommodate different groups, including farm laborers.

Marbletown adopted a farmland protection plan. *The Marbletown Agricultural and Farmland Protection Plan* builds on the Town’s policy of supporting agriculture with several broad recommendations to protect and promote it. Each recommendation has a list of proposed actions. In general, recommendations have the aim of establishing farmland protection programs and improving agricultural economic development. These recommendations also have the aim of integrating agricultural-friendly policies not just into the Town’s land use laws, but in its operating activities, too. This comprehensive agricultural policy is reflected in Marbletown’s zoning statute, which integrates state certified agricultural districts with local zoning.

4. The degree of coordination between local laws, ordinances, rules, and regulations that apply to farm operations in such district and their influence on farming

HARDENBURGH, OLIVE AND WAWARSING

The zoning statutes for Hardenburgh, Olive, and Wawarsing do not differentiate between crop and animal agriculture. Hardenburgh and Olive are towns that allow agriculture in every zoning district by right. (Hardenburgh only has one zoning district, a residential district that also allows certain non-residential uses.) Wawarsing prohibits agriculture in its BH Business Highway District, MU Mixed-Use Zoning District, NS Neighborhood Settlement District, RH Ridge Hamlet District, and PCIM Commercial and Industrial District, all of which allow the highest development densities in town. Together, they compose a small land area. In the rest of Wawarsing, the majority of town, agriculture is allowed by right.

Hardenburgh and Olive require setbacks for items commonly seen in other towns. Olive addresses setbacks for manure and other dust- or odor-producing substances in the section that deals with zoning districts themselves. Hardenburgh addresses setbacks for odor-producing substances and for structures housing farm animals in its zoning supplementary regulations, which is typical.

Wawarsing’s zoning statute has no supplementary regulations for agriculture, but addresses agriculture in the Permit Requirements section. “Farm livestock fences” do not need permits, and “shall continue in effect so long as there is no change of use, regardless of change in tenants or occupants.” In the Section on Individual special use standards, large-scale solar

energy systems on farm soils of prime or statewide significance are to be avoided and total lot coverage on lands with these soils can't exceed 20%.

Farm stands require special permit and site plan review in Olive as commercial uses but are allowed in every zoning district. Hardenburgh allows farm stands by right. Wawarsing allows farm stands in every zoning district where agriculture is allowed as an accessory use.

Wilderness covers large portions of these three towns. Wilderness covers much of Hardenburgh and Olive as they are both located entirely within Catskill State Park. Wawarsing has developed hamlets located along Route 209, but Minnewaska State Park covers much of its eastern portion and wilderness covers much of the southern and western parts of town. In most areas of Wawarsing, agricultural operations have enough separation from developed areas that neighbors do not complain.

The zoning in Olive, Hardenburgh and Wawarsing reflects their rural character. The zoning regulations are not as complex or detailed as found in other towns, particularly more developed ones. These towns accommodate farming by allowing it in most places, if not everywhere, and regulating agriculture lightly.

MARBLETOWN

Marbletown looks to minimize land use conflicts by separating certain agricultural operations and residential uses through zoning. Marbletown does this by classifying crops and livestock separately in its zoning statute. In particular, it limits where livestock and poultry operations can be located, but allows crop growing in every district. Marbletown in its supplementary regulations for agriculture allows for livestock in any zoning district provided the farm is in a state certified agricultural district and certain standards are followed.

Marbletown restricts livestock agriculture to areas that require larger minimum lot sizes, and as a result, are not as densely developed. This makes it less likely for activities on one property to be a nuisance to an adjacent one. Marbletown restricts livestock agriculture to the more rural areas in less densely developed zoning districts. These zoning districts, with their larger lot sizes, encompass large portions of the town with the districts that prohibit livestock agriculture being small in comparison. Marbletown limits where farm stands can be located in the same manner as livestock agriculture.

Marbletown's supplementary regulations address setbacks for buildings and odor-producing substances, too. Marbletown's supplementary regulations are unique because of the policy for granting variances to agricultural operations. Marbletown allows more latitude in an agricultural operation's request for a variance even if it is not within an agricultural district. This is opposed to granting the minimum variance necessary as customary by the zoning board of appeals.

ROCHESTER

The Town of Rochester addresses agriculture more extensively than other towns in Agricultural District #3. The Town has nine land uses related to agriculture in its zoning statute:

1. Agriculture (animal)
2. Agriculture (nonanimal)
3. Agricultural processing facilities
4. Agricultural retail sales
5. Agricultural tourism enterprises
6. Agricultural labor housing
7. Animal husbandry
8. Farm mining
9. Farm stands

Agriculture (nonanimal) and animal husbandry are allowed in every zoning district with crop agriculture as a principal permitted use and animal husbandry as an accessory use. The town has supplementary zoning regulations for animal husbandry, which have minimum lot sizes that depend on the animal. Site plan review fees are waived for animal husbandry. Agriculture (animal) is also allowed in every zoning district but requires site plan review in zones with certain residential densities, particularly the H Hamlet, R-1 Neighborhood Residential, and R-2 Low-Density Residential Districts. The other agricultural land uses are allowed with site plan review or special permit in zoning districts that can accommodate commercial and industrial operations. Rochester differs from other Ulster County towns in the extent to which it identifies and regulates different agricultural land uses.

The town has supplementary zoning regulations for agricultural uses. All agricultural buildings require a zoning permit, but they are exempt from height restriction standards. Agricultural labor housing is exempt from the minimum lot area requirements of a given zoning district. Site plan review also falls under the town's zoning regulations. The Department of Agriculture and Markets has commended the town's efficiency in moving farm operations in a state certified agricultural district through the site plan review process.

Chapter 75 Farming of the Town's Code shows its support for the agricultural community. The section titled Right to Undertake Agriculture Practices says

Farmers, as well as those employed, retained or otherwise authorized to act on behalf of farmers, may lawfully engage in farming practices within the Town of Rochester at any and all such times and all such locations as are reasonably necessary to conduct the business of farming. For any activity or operations, in determining the reasonableness of the time, place and methodology of such operation, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge and improved technologies.

The next section titled Notice to Prospective Buyers deals with language included in building permits and on plats of subdivisions and says

Residents should be aware that farmers have the right to undertake farm practices which may generate dust, odor, smoke, noise and vibrations and which may involve insecticides, herbicides, pesticides, etc."

The law establishes that farming can take place in the town and provides notice requirements to those seeking a building permit or a subdivision. The law doesn't address the threshold necessary for code enforcement to intercede in a nuisance dispute and close all or part of a farm. The Towns of Marlborough and Saugerties have right-to-farm laws that do this.

5. Recommendation to continue, modify, or terminate such district

The AFPB recommends continuation of the District with a modification. Agricultural District #3 continues to play an important role in Ulster County's farming communities. The AFPB's recommendation was based on the following examination of tax parcels:

A digital map of Agricultural District #3's tax parcels was examined for this review. Tax assessor information and an aerial map of Ulster County were also used in conjunction with this examination. These items supplied information on land uses found in the tax parcels.

For this review, viable agricultural lands are tax parcels with real property class codes in the 100 (agriculture) range along with codes 241 (single-family residence with agriculture) and 555 (riding stables). In other words, land that tax assessors designated as agriculture. Agricultural property class codes mean an operational farm. Generally, vacant land already in an agricultural district is considered viable for agriculture. These are parcels with real property class codes in the 300 (vacant lands) range. Meaning such land was deemed viable at one point for agriculture and is presumed to be so now. Economic factors may come into play that have them host commercial farms one day. Residential and commercial tax parcels connected to farms or that could feasibly connect to commercial agricultural operations were not flagged for further review by the Ulster County Planning Department.

Every part of Agricultural District #3 was examined. However, because the Ulster County Planning Department monitors subdivision activity throughout the County, certain areas of the District came under more scrutiny. These are residential subdivisions with small lot sizes i.e. less than 5 acres. Particularly with water and septic infrastructure already in place.

Agricultural District #3 has several residential subdivisions with delineated tax parcels that are undeveloped. These tax parcels do not have the well and septic infrastructure needed to

accommodate homes. The tax parcels in these areas are less than five acres but are still actively farmed or have the potential to host commercial agriculture. The AFPB does not recommend removing such tax parcels despite plans on file with municipalities for residential development.

Ulster County conducts gateway meetings as part of its land development review responsibilities. While optional, these meetings provide an opportunity for county, state, and municipal officials to meet real estate development teams to address issues early in the development process. In March 2021, the County hosted a gateway meeting for tax parcel # 76.2-2-10 (5728 Route 209) in the Town of Rochester, which hosted an active farm operation when it was included in the agricultural district in 2019. The current property owners have proposed a multi-family development.

Recommendation

The AFPB held its meeting concerning the review of Agricultural District #3 on February 20, 2025. The AFPB reviewed the parcel (76.2-2-10, Town of Rochester) identified for removal by Ulster County Planning Department staff. **The AFPB recommends the continuation of the District with the modification that one parcel totaling 15.91 acres be removed from Agricultural District #3.**

Aerial photography of the parcel considered for removal is found in Appendices 7 and 8.

**Ulster County
Agricultural District No. 3
8-Year Review 7/21/2025**

	Size of District January 2025		Recommended for Removal		Landowner Requested		Presented for Removal	
	Parcels	Acreage	Parcels	Acreage	Parcels	Acreage	Parcels	Acreage
Hardenburgh	2	581.43						
Marbletown	169	3,282.15						
Olive	8	186.17						
Rochester	312	7,954.51	1	15.91			1	15.91
Rosendale	11	360.79						
Wawarsing	98	4,547.11						
Total	600	16,911.16	1	15.91			1	15.91

List of Figures and Appendices

Figure 1: Number of Tax Parcels with Agricultural Real Property Class Codes in the Rondout Valley and Hardenburgh, 2017 and 2024

Appendix 1: Area Containing Agricultural District #3

Appendix 2: Area Containing Agricultural District #3 with District Parcels

Appendix 3: Rondout Valley – Tax Parcels in Agricultural District #3 (2024)

Appendix 4: Hardenburgh – Agricultural District #3 Tax Parcels with Agricultural Real Property Class Codes

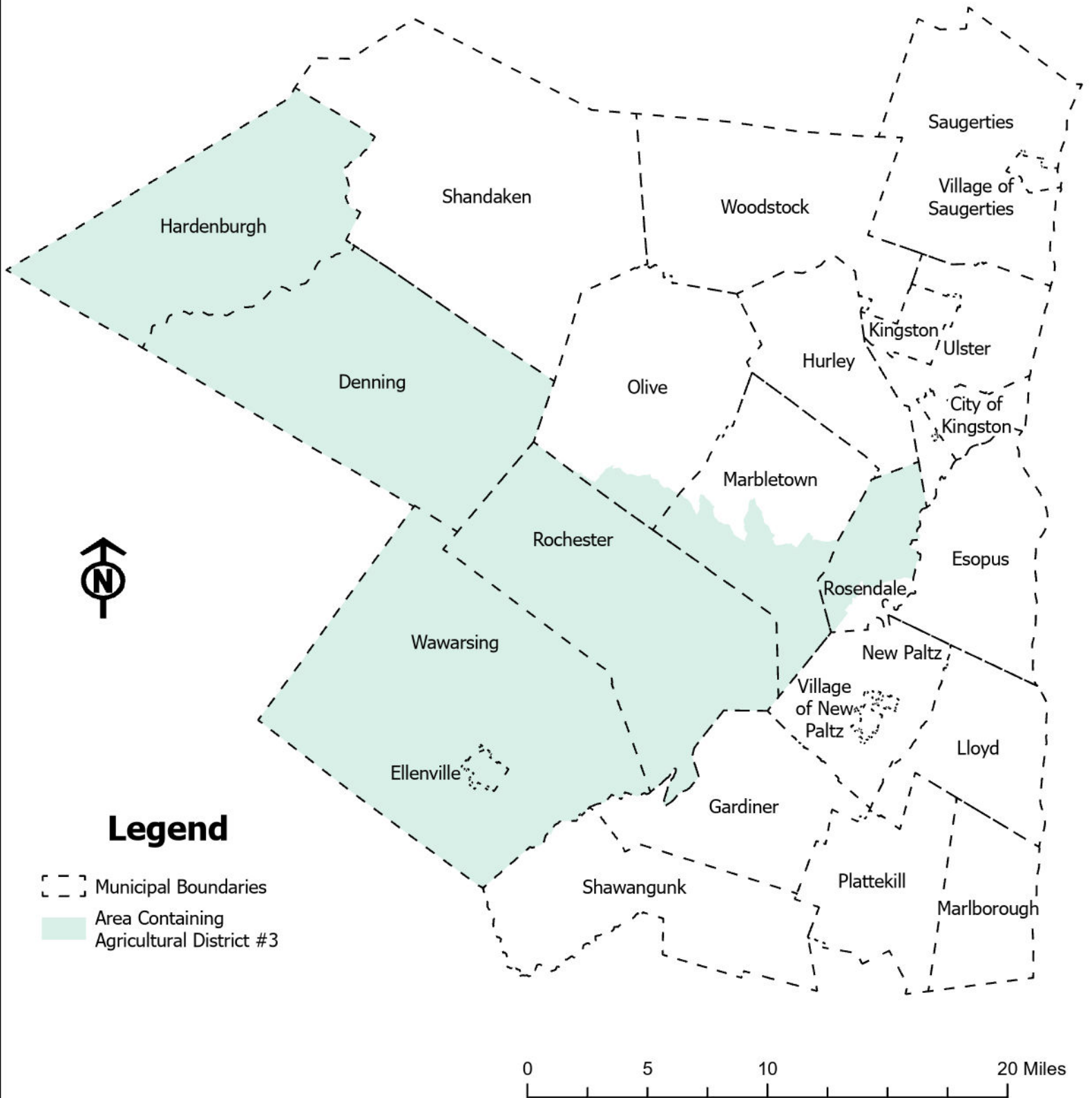
Appendix 5: Rondout Valley – Tax Parcels Within and Outside Agricultural District #3 by Real Property Class Code - 2017

Appendix 6: Rondout Valley – Tax Parcels Within and Outside Agricultural District #3 by Real Property Class Code - 2024

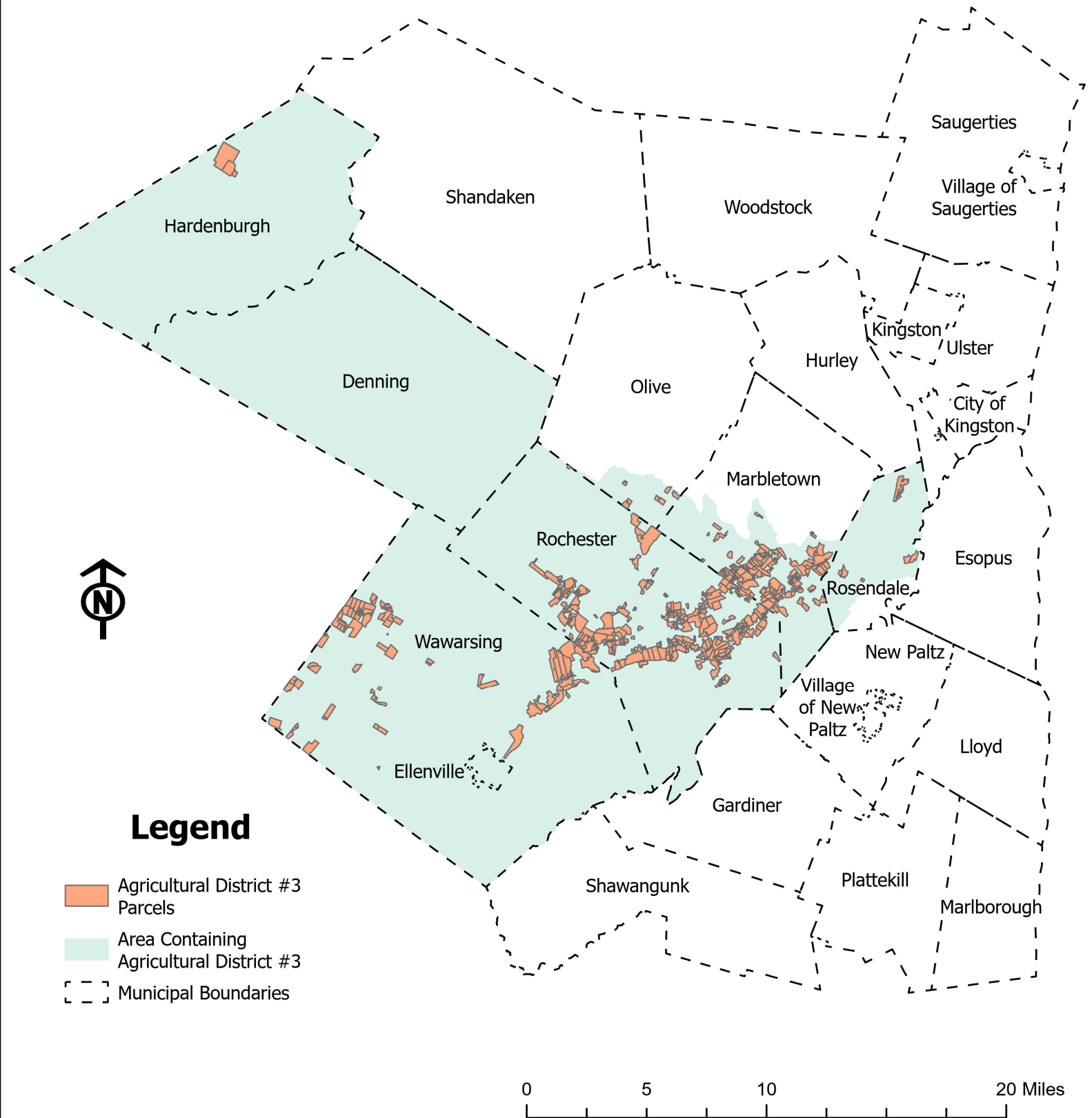
Appendix 7: Tax Parcel # 76.2-2-10 Photo from 2022 in Town of Rochester

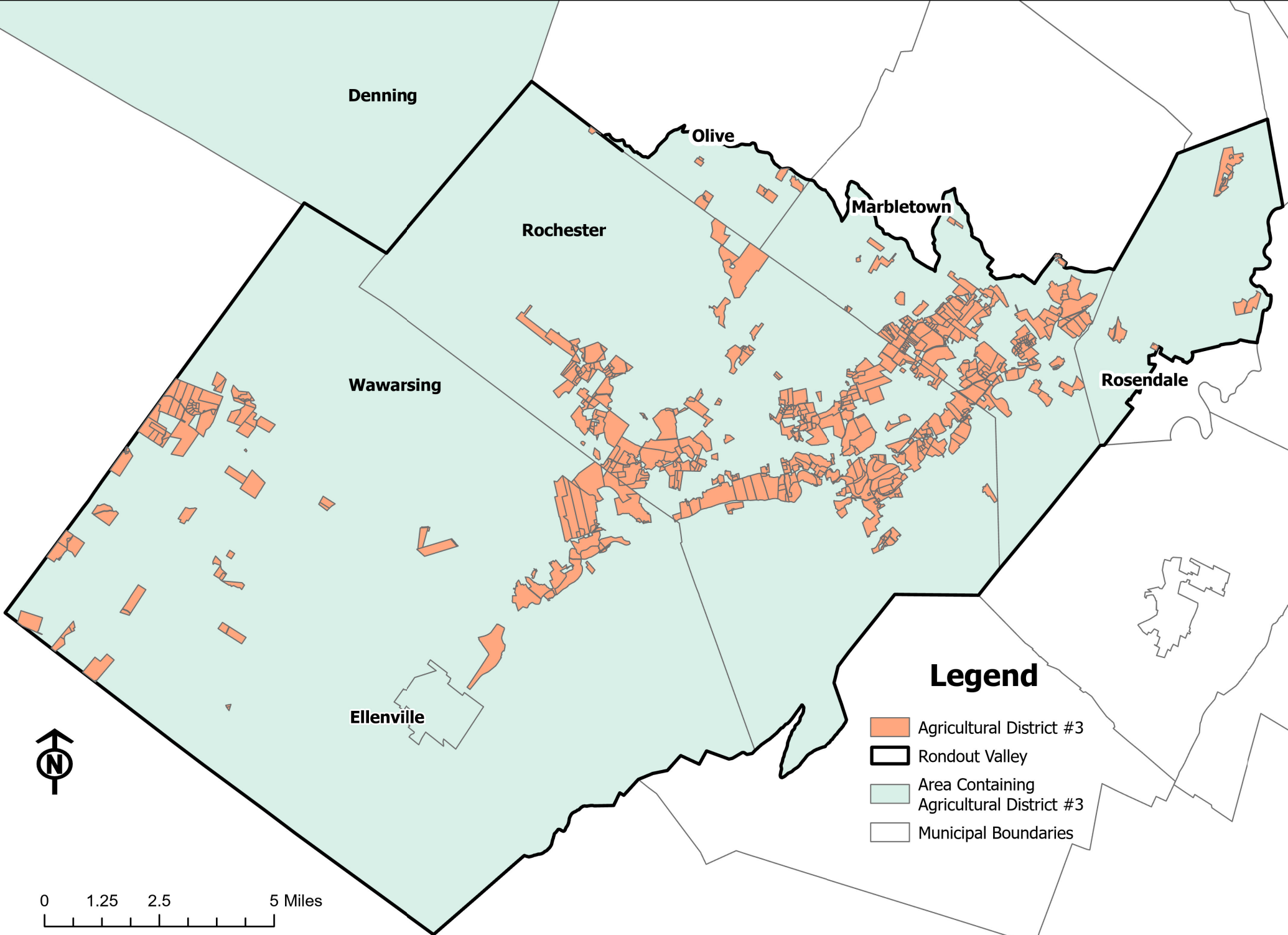
Appendix 8: Tax Parcel # 76.2-2-10 Photo from 2024 in Town of Rochester

Appendix 1: Area Containing Agricultural District #3



Appendix 2: Area Containing Agricultural District #3 with District Parcels





Appendix 3: Rondout Valley - Tax Parcels in Agricultural District #3 (2024)

Map created at the Ulster County Planning Department by Burt Samuelson in December 2024.

Appendix 4: Hardenburgh - Agricultural District #3 Tax Parcels with Agricultural Real Property Class Codes

Legend

- In District #3 with Agricultural Real Property Class Code
- Outside of District #3 with Agricultural Real Property Class Code as of 2024
- Outside of District #3 with Agricultural Real Property Class Code as of 2017
- Municipal Boundaries and Area Containing District #3
- Municipal Boundaries Only

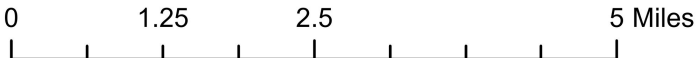
DELAWARE COUNTY

ULSTER COUNTY






SULLIVAN COUNTY

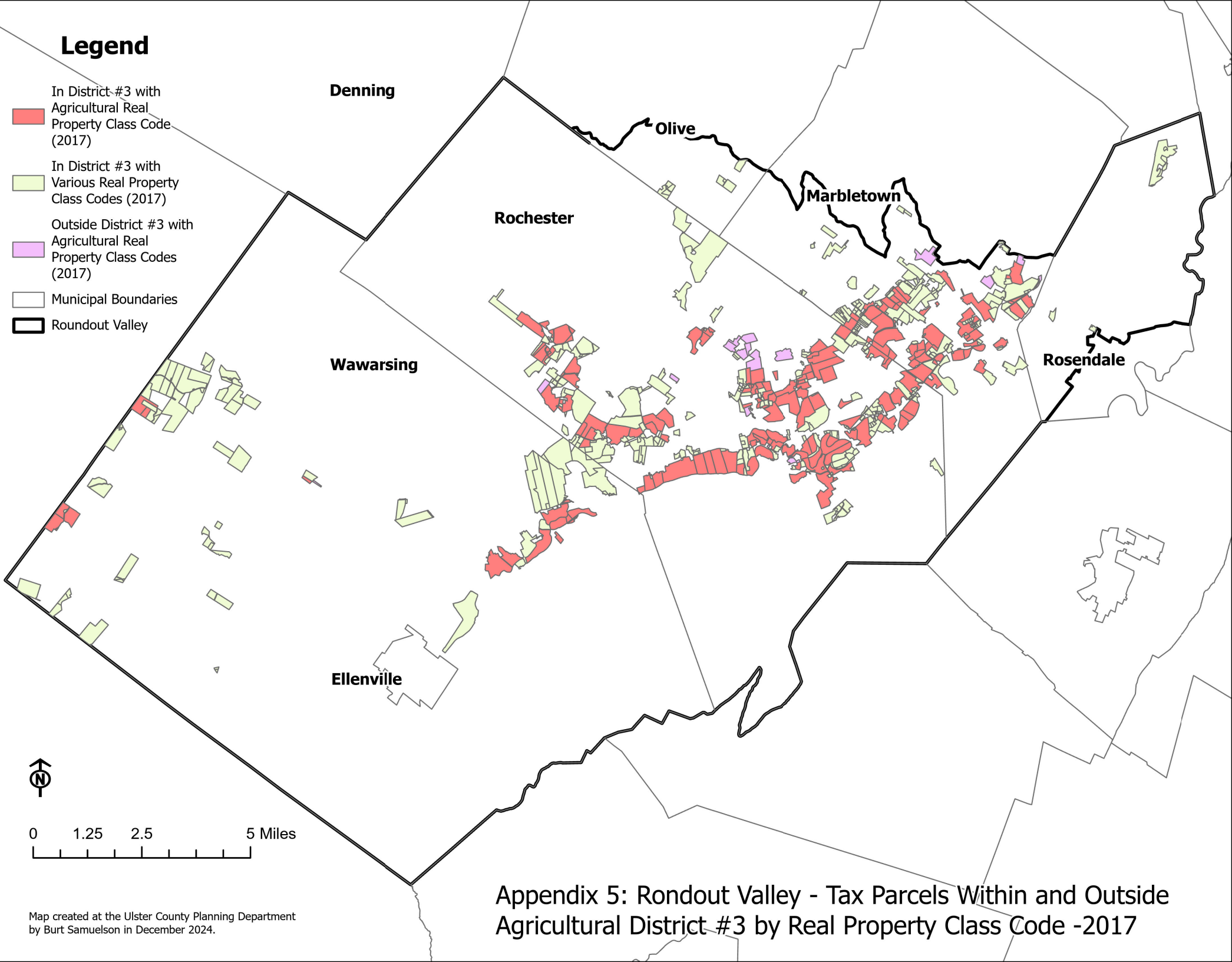
Hardenburgh

Denning



Legend

-  In District #3 with Agricultural Real Property Class Code (2017)
-  In District #3 with Various Real Property Class Codes (2017)
-  Outside District #3 with Agricultural Real Property Class Codes (2017)
-  Municipal Boundaries
-  Roundout Valley



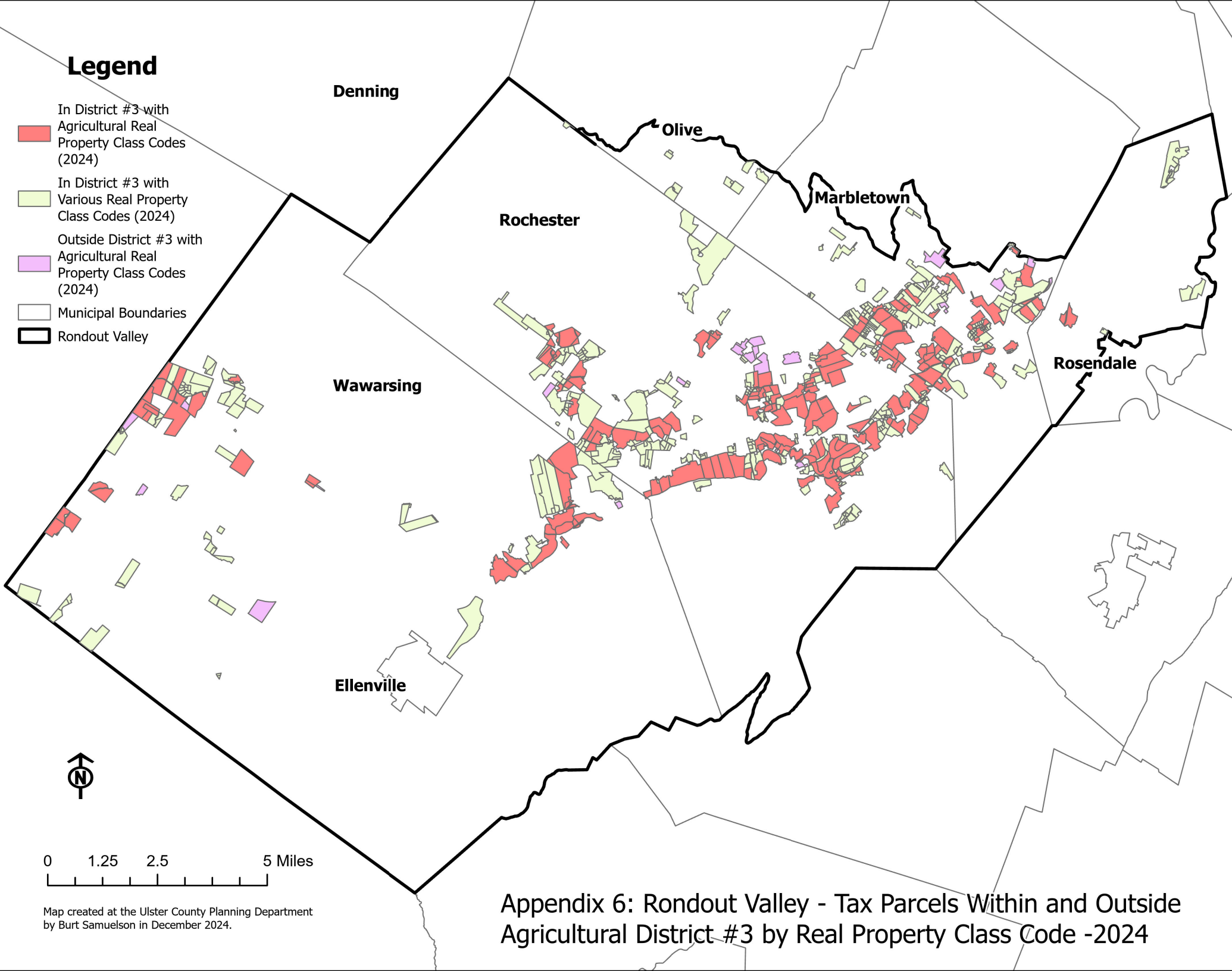
0 1.25 2.5 5 Miles

Map created at the Ulster County Planning Department by Burt Samuelson in December 2024.

Appendix 5: Rondout Valley - Tax Parcels Within and Outside Agricultural District #3 by Real Property Class Code -2017

Legend

- In District #3 with Agricultural Real Property Class Codes (2024)
- In District #3 with Various Real Property Class Codes (2024)
- Outside District #3 with Agricultural Real Property Class Codes (2024)
- Municipal Boundaries
- Rondout Valley



Appendix 6: Rondout Valley - Tax Parcels Within and Outside Agricultural District #3 by Real Property Class Code -2024

Map created at the Ulster County Planning Department by Burt Samuelson in December 2024.

Appendix 7: Tax Parcel # 76.2-2-10
Photo from 2022 in Town of Rochester



Route 209

5728 Route 209

Map prepared at the
Ulster County Planning Dept.

Photo from USDA Geospatial Data Gateway

Appendix 8: Tax Parcel # 76.2-2-10
Photo from 2024 in Town of Rochester



Route 209

5728 Route 209

Map prepared at the
Ulster County Planning Dept.

Photo from USDA Geospatial Data Gateway